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ANIMALS Animal Protection: Prohibit the Obstruction of the Commissioner of Agriculture and Employed Officers; Change Certain Provisions Relating to Definitions; Provide for Inspection Warrants and Impounding and Disposal of Mistreated Animals; Provide for Notice and Hearing to Owners of Impounded Animals; Change Certain Provisions Relating to Animal Care by Licensed Persons; Provide for Injunctions and Restraining Orders; Prohibit Abandoning Domestic Animals; Prohibit Dog Fighting; Provide for Reporting of Violations and the Civil and Criminal Immunity of Reporters; Change Certain

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Provisions Relating to Cruelty to Animals; Change Certain Provision Relating to Penalties; Provide for Exemptions

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ANIMALS

Animal Protection: Prohibit the Obstruction of the Commissioner of Agriculture and Employed Officers; Change Certain Provisions Relating to Definitions; Provide for Inspection Warrants and Impounding and Disposal of Mistreated Animals; Provide for Notice and Hearing to Owners of Impounded Animals; Change Certain Provisions Relating to Animal Care by Licensed Persons; Provide for Injunctions and Restraining Orders; Prohibit Abandoning Domestic Animals; Prohibit Dog Fighting; Provide for Reporting of Violations and the Civil and Criminal Immunity of Reporters; Change Certain Provisions Relating to Cruelty to Animals; Change Certain Provisions Relating to Aggravated Cruelty to Animals; Change Certain Provisions Related to Penalties; Provide for Exemptions

CODE SECTIONS:	O.C.G.A. §§ 4-1-6, 4-8-7, 4-11-2, -9, -10, -15 to -17, 4-13-10, 16-12-4 (amended)
BILL NUMBER:	SB 297
ACT NUMBER:	686
GEORGIA LAWS:	2000 Ga. Laws 754
SUMMARY:	The Act, called the "Animal Protection Act," prohibits obstructing the Commissioner of Agriculture or his or her agents, or animal control officers, in the performance of their duties. The Act also changes a number of sections of the Georgia Code to increase the severity of punishment for animal cruelty offenses by providing that a second animal cruelty offense that results in the animal's death will be a misdemeanor of a high and aggravated nature and will incur a more severe penalty. Further, the Act creates the felony offense of aggravated cruelty to animals (an act which makes a part of the animal's body useless or seriously disfigures the animal) and provides

penalties for first and subsequent commissions of this offense. The Act permits a sentencing judge to order psychological evaluation of any offender convicted under this Act. Finally, the Act sets out various activities which are exempt from its provisions.

EFFECTIVE DATE: May 1, 2000¹

History

A series of highly publicized incidents involving extreme cases of cruelty to animals convinced many Georgians of the need for a stricter law governing the treatment of animals.² One incident in particular, in which a group of teenagers doused a cat with gasoline and set it afire, garnered public support for such a law.³ A Lee County couple, whose horses had been brutally killed, were at the forefront of constituents demanding harsher sanctions against animal cruelty.⁴ In the Georgia General Assembly, Senator Robert Brown of the 26th District had developed an animal cruelty bill making certain cases of animal cruelty a felony.⁵ In the 2000 legislative session, Senator Brown decided that due to public support and the achievement of a "magical middle ground" by the bill's proponents and opponents, the time was right to introduce his bill.⁶

1. See 2000 Ga. Laws 754, § 13-14, at 766. The Act took effect on the first day of the month following approval by the Governor. See *id.*

2. See Audio Recording of Senate Proceedings, Feb. 10, 2000 (remarks by Sen. Robert Brown) <<http://www.ganet.org/services/leg/audio/2000archive.html>> [hereinafter Senate Audio].

3. See *id.*

4. See Telephone Interview with Sen. Michael Meyer von Bremen, Senate District No. 12 (June 1, 2000).

5. See Senate Audio, *supra* note 2.

6. See *id.*

*SB 297**Introduction*

Senators Robert Brown of the 26th, Bart Ladd of the 41st, and Mike Polak of the 42nd sponsored SB 297.⁷ Senator Brown introduced the bill on the Senate floor on January 11, 2000.⁸ The Senate assigned the bill to its Natural Resources Committee, which favorably reported the bill, as substituted.⁹ The Senate adopted the Committee substitute and passed the bill unanimously on February 10, 2000.¹⁰ On February 14, 2000, the House assigned SB 297 to its Agriculture Committee, which created its own substitute and favorably reported the bill on February 29, 2000.¹¹ The House adopted the Agriculture Committee substitute, adopted five floor amendments, and passed the bill on March 15, 2000.¹² The bill returned to the Senate on March 20, 2000, but the Senate refused to concur with the House amendments.¹³ The House insisted on the amendments on March 22, 2000, and a Conference Committee was appointed the same day.¹⁴ Both the House and Senate adopted the Conference Committee report on March 22, 2000.¹⁵ The General Assembly forwarded the bill to Governor Roy Barnes, who signed SB 297 into law on April 27, 2000.¹⁶

Consideration by the Senate Natural Resources Committee

After introduction, the Senate assigned the bill to its Natural Resources Committee.¹⁷ The Committee favorably reported the

7. See SB 297, as introduced, 2000 Ga. Gen. Assem.

8. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

9. See *id.*

10. See Georgia Senate Voting Record, SB 297 (Feb. 10, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

11. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

12. See Georgia House of Representatives Voting Record, SB 297 (Mar. 15, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000; see also Audio Recording of House Proceedings, Mar. 15, 2000 (vote on amendments) <<http://www.ganet.org/services/leg/audio/2000archive.html>> [hereinafter House Audio].

13. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

14. See *id.*

15. See Georgia House of Representatives Voting Record, SB 297 (Mar. 22, 2000); Georgia Senate Voting Record, SB 297 (Mar. 22, 2000).

16. See 2000 Ga. Laws 754, §14, at 766.

17. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

bill, as substituted, on February 10, 2000.¹⁸ The Natural Resources Committee substitute added Code section 4-1-6, making it unlawful to obstruct the Commissioner of Agriculture or the Commissioner's agents or employees in carrying out the provisions of the Act.¹⁹ The substitute also amended Code section 4-11-2, by adding a definition for 'animal control officer.'²⁰ The substitute added Code section 4-11-9.2, allowing the Commissioner and agents to impound an animal when they have probable cause to believe the animal was being or had been mistreated in violation of the Act.²¹ Additional sections 4-11-9.3 to -9.6 provided for notice and hearing to the owner of the impounded animal, care and housing for the animal until the hearing, and disposal of the animal afterwards (by sale, return to the owner, or euthanasia).²²

The Committee substitute removed language in Code section 4-11-10, regarding violations by licensed pet dealers and kennel, stable, and animal shelter operators so that prohibitions would no longer be limited to animal cruelty on the premises or in relation to the licensed facility.²³ The substitute amended section 4-11-15 to allow the city or county attorney to apply for an injunction or restraining order whenever authorized by local government.²⁴ In addition, the substitute added a subsection to Code section 4-11-15 to prohibit the abandonment of domesticated animals.²⁵ The substitute added a new Code section 4-11-17, which would permit veterinarians and veterinary technicians to report violations of the Code sections and receive civil and criminal immunity.²⁶

18. *See id.*

19. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

20. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

21. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

22. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

23. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

24. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

25. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

26. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga.

The Senate Committee substitute eliminated some changes proposed in the original version by amending Code section 4-13-3, relating to equine care,²⁷ and amending Code section 16-11-107, relating to the offense of killing or injuring a police dog or horse.²⁸ The Committee substitute also deleted the original bill's new Code section 16-12-180, which defined terms and provided exemptions to the offense of animal cruelty.²⁹ The substitute further eliminated language that defined the offenses of cruelty to animals in the first and second degree and that made first degree animal cruelty and the third offense of second degree animal cruelty felony crimes.³⁰ The substitute provided that a judge could impose reasonable restrictions on a convicted defendant's ownership or possession of animals as a condition of probation.³¹

The Natural Resources Committee substitute also deleted provisions that allowed for court-ordered counseling, education, or both, as a condition of a convicted offender's sentence.³² The substitute also struck provisions defining and providing penalties for animal fighting.³³ The substitute redacted from the bill proposed new Code sections 16-12-184 and -185, which would have provided procedures for seizing and impounding mistreated animals, sample forms for notice of the impound to the owner, process by which the owner could demand a hearing, and factors to be considered by the court in such a hearing.³⁴ The substitute's new section 16-12-4 would have created the felony offense of aggravated cruelty to animals for those who

Gen. Assem.

27. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

28. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

29. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

30. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

31. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

32. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

33. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

34. *Compare* SB 297, as introduced, 2000 Ga. Gen. Assem., *with* SB 297 (SCS), 2000 Ga. Gen. Assem.

intentionally or with willful negligence kill an animal, render part of an animal's body useless, or seriously disfigure an animal, with exemptions provided for activities such as hunting, trapping, and scientific research.³⁵

Senate Passage

The Senate unanimously passed SB 297, as substituted, on February 10, 2000.³⁶ The bill was referred to the House Agriculture Committee on February 14, 2000.³⁷

Consideration by the House Agriculture Committee

The House Agriculture Committee favorably reported SB 297, as substituted, on February 29, 2000.³⁸ The Agriculture Committee substitute provided an exception permitting impounding for scientific experimentation at an educational or research institution, by adding a subsection to Code section 4-11-9.2.³⁹ The House Committee substitute also added butchering, food processing, research, and a private landowner's protection of his property to the list of exempted activities in proposed Code section 16-12-4.⁴⁰ Finally, the House Committee substitute added a subsection to 16-12-4, which would permit one to injure or kill an animal while defending against personal or property damage or damage to one's livestock or poultry.⁴¹ The method used to kill the animal must be as humane as possible under the circumstances.⁴²

35. Compare SB 297, as introduced, 2000 Ga. Gen. Assem., with SB 297 (SCS), 2000 Ga. Gen. Assem.

36. See Georgia Senate Voting Record, SB 297 (Feb. 10, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

37. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

38. See *id.*

39. Compare SB 297 (SCS), 2000 Ga. Gen. Assem., with SB 297 (HCS), 2000 Ga. Gen. Assem.

40. Compare SB 297 (SCS), 2000 Ga. Gen. Assem., with SB 297 (HCS), 2000 Ga. Gen. Assem.

41. Compare SB 297 (SCS), 2000 Ga. Gen. Assem., with SB 297 (HCS), 2000 Ga. Gen. Assem.

42. Compare SB 297 (SCS), 2000 Ga. Gen. Assem., with SB 297 (HCS), 2000 Ga. Gen. Assem.

House Passage and Floor Amendments

The House passed SB 297, as substituted and with floor amendments, on March 15, 2000.⁴³ The House floor amendments excluded fish and other swimming creatures, as well as pests, from the protection offered in the bill.⁴⁴ The floor amendments provided, in a subsection added to 16-12-4, for a warrant hearing whenever a warrant was applied for by someone other than a law enforcement or peace officer.⁴⁵ The floor amendments removed language that made causing death or severe bodily harm to an animal by willful neglect an offense of aggravated cruelty to animals.⁴⁶ Further, the floor amendments changed the offense of aggravated cruelty to animals to a misdemeanor rather than a felony, with a corresponding decrease in the resulting penalty.⁴⁷

Conference Committee

The Senate rejected the House version on March 20, 2000.⁴⁸ The House insisted on its changes on March 22, 2000, and the bill was referred to a Conference Committee the same day.⁴⁹ The Conference Committee substitute defined 'willful neglect' as the intentional withholding of the food and water needed by an animal to prevent starvation or dehydration.⁵⁰ The final version further provided for the misdemeanor offense of cruelty to animals, with subsequent violations amounting to a misdemeanor of a high and aggravated nature.⁵¹ The substitute

43. See Georgia House of Representatives Voting Record, SB 297 (Mar. 15, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000; House Audio, *supra* note 12 (remarks by Speaker Thomas B. Murphy and vote on amendments).

44. Compare SB 297 (HCS), 2000 Ga. Gen. Assem., with SB 297 (HCSFA), 2000 Ga. Gen. Assem.

45. Compare SB 297 (HCS), 2000 Ga. Gen. Assem., with SB 297 (HCSFA), 2000 Ga. Gen. Assem.

46. Compare SB 297 (HCS), 2000 Ga. Gen. Assem., with SB 297 (HCSFA), 2000 Ga. Gen. Assem.

47. Compare SB 297 (HCS), 2000 Ga. Gen. Assem., with SB 297 (HCSFA), 2000 Ga. Gen. Assem.

48. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

49. See *id.*

50. Compare SB 297 (HCSFA), 2000 Ga. Gen. Assem., with SB 297 (CCS), 2000 Ga. Gen. Assem.

51. Compare SB 297 (HCSFA), 2000 Ga. Gen. Assem., with SB 297 (CCS), 2000 Ga. Gen. Assem.

reinserted the felony offense of aggravated cruelty to animals, but provided that the offense could only be committed by knowingly and maliciously killing an animal or damaging it so that part of its body was rendered useless or the animal was seriously disfigured.⁵² The penalty for a second offense of aggravated cruelty to animals was reduced from three to ten years imprisonment and/or a fine to one to five years imprisonment and/or a fine.⁵³ Further, the Conference Committee's version added a new exemption that would permit killing or injuring an animal reasonably believed to be a threat of injury or damage to property, livestock, or poultry.⁵⁴ Finally, the Conference Committee added language providing immunity from civil or criminal liability for those who kill or injure an animal under one of the exemptions, so long as the actions taken are as humane as possible.⁵⁵ The House and Senate adopted the Conference Committee substitute on March 22, 2000.⁵⁶

The Act

Section 1 of the Act provides the short title, "Animal Protection Act of 2000."⁵⁷ The Act amends Title 4 of the Code by inserting a new Code section 4-1-6 that makes it unlawful to obstruct the Commissioner of Agriculture or his or her agents, or employees, or animal control officers, in the enforcement of the Act.⁵⁸ The Act also amends Code section 4-8-7 by adding language that provides for the new felony provisions outlined in Code section 16-12-4, as amended.⁵⁹ The Act amends Code

52. Compare SB 297 (HCSFA), 2000 Ga. Gen. Assem., with SB 297 (CCS), 2000 Ga. Gen. Assem.

53. Compare SB 297 (SCS), 2000 Ga. Gen. Assem., and SB 297 (HCS), 2000 Ga. Gen. Assem., with SB 297 (CCS), 2000 Ga. Gen. Assem.

54. Compare SB 297 (HCSFA), 2000 Ga. Gen. Assem., with SB 297 (CCS), 2000 Ga. Gen. Assem.

55. Compare SB 297 (HCSFA), 2000 Ga. Gen. Assem., with SB 297 (CCS), 2000 Ga. Gen. Assem.

56. See Georgia House of Representatives Voting Record, SB 297 (Mar. 22, 2000); Georgia Senate Voting Record, SB 297 (Mar. 22, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

57. See 2000 Ga. Laws 754, § 1, at 755.

58. See O.C.G.A. § 4-1-6 (Supp. 2000).

59. Compare 1988 Ga. Laws 824, § 1, at 825 (formerly found at O.C.G.A. § 4-8-7 (1995)), with O.C.G.A. § 4-8-7 (Supp. 2000).

section 4-11-2 by adding a definition of 'animal control officer.'⁶⁰ The Act further amends Code section 4-11-9 by adding subsections 4-11-9.2 to -9.6, which provide for the issuance of inspection warrants, the impounding of mistreated animals, notice and hearing to the owner of an impounded animal, and disposal of the impounded animal after a hearing.⁶¹

In addition, the Act amends Code section 4-11-10 by removing language that limited the liability of licensed persons for animal cruelty to violations that occurred on the premises or in relation to a licensed facility.⁶² The Act also amends Code section 4-11-15 by providing that, where authorized by local government, the city or county attorney may apply to the superior court for an injunction or a restraining order to prevent animal cruelty.⁶³

The Act further amends Title 4 by inserting a new Code section 4-11-15.1, which prohibits the abandonment of domestic animals.⁶⁴ The Act amends Code section 4-11-16 by adding language which provides a penalty for violations of the Act by a corporation.⁶⁵ The Act also creates new Code section 4-11-17, which allows veterinarians or veterinary technicians to report violations and then to receive immunity from liability for making the reports.⁶⁶ The Act also amends Code section 4-13-10 by adding the misdemeanor provisions of the Act.⁶⁷ The Act further amends Code section 16-12-4 by excluding fish and pests from animals that are protected by the Act, and by defining the terms 'convictions' and 'willful neglect' as used in the Act.⁶⁸ Finally, the Act amends Code section 16-12-4 by prohibiting and

60. Compare 1990 Ga. Laws 1650, § 1, at 1650-51 (formerly found at O.C.G.A. § 4-11-2 (1995)), with O.C.G.A. § 4-11-2 (Supp. 2000).

61. Compare 1990 Ga. Laws 1650, § 3, at 1651-52 (formerly found at O.C.G.A. § 4-11-9 (1995)), with O.C.G.A. § 4-11-9 (Supp. 2000).

62. Compare 1990 Ga. Laws 328, § 1, at 329-33 (formerly found at O.C.G.A. § 4-11-10 (1995)), with O.C.G.A. § 4-11-10 (Supp. 2000).

63. Compare 1990 Ga. Laws 328, § 1, at 329-33 (formerly found at O.C.G.A. § 4-11-15 (1995)), with O.C.G.A. § 4-11-15 (Supp. 2000).

64. Compare 1990 Ga. Laws 328, § 1, at 328-33 (formerly found at O.C.G.A. § 4-11-15 (1995)), with O.C.G.A. § 4-11-15.1 (Supp. 2000).

65. Compare 1990 Ga. Laws 328, § 1, at 328-33 (formerly found at O.C.G.A. § 4-11-16 (1995)), with O.C.G.A. § 4-11-16 (Supp. 2000).

66. See O.C.G.A. § 4-11-17 (Supp. 2000).

67. Compare 1992 Ga. Laws 2398, § 2, at 2400-04, and 1992 Ga. Laws 3214, § 1, at 3215-19 (formerly found at O.C.G.A. § 4-13-10 (1995)), with O.C.G.A. § 4-13-10 (Supp. 2000).

68. Compare 1992 Ga. Laws 1654, § 1, at 1655 (formerly found at O.C.G.A. § 16-12-4 (1995)), with O.C.G.A. § 16-12-4 (Supp. 2000).

defining the offenses of cruelty to animals and aggravated cruelty to animals and by providing penalties for these offenses.⁶⁹ Several activities are listed as exempt from the provisions of the Act.⁷⁰

Opposition to SB 297

Most of the opposition to SB 297 came from rural constituents concerned about being charged with a felony for shooting an animal in protection of their livestock or family, or for accidentally killing an animal, for example, in a car accident.⁷¹ Other agricultural and hunting groups, including the Georgia Department of Agriculture and the Georgia Game Bird Association, actively supported the bill.⁷² Representative Glenn Richardson of the 26th House District initially opposed the bill because it was "a bad idea based upon flawed logic and incorrect and incomplete statistics. The bill was very poorly written, and its language left more questions than answers in its interpretation."⁷³ Although he agreed that the General Assembly should support more severe penalties for cruelty to animals, Representative Richardson felt that a more appropriate action was to send a message to judges that jail time, which was available under the current misdemeanor law, should be imposed more often in sentencing.⁷⁴ However, the Conference Committee was able to modify the bill in a way that alleviated some of the concerns of Representative Richardson and others, and both houses ultimately adopted the Conference Committee's recommendation.⁷⁵

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69. Compare 1992 Ga. Laws 1654, § 1, at 1655 (formerly found at O.C.G.A. § 16-12-4 (1995)), with O.C.G.A. § 16-12-4 (Supp. 2000).

70. See O.C.G.A. § 16-12-4 (Supp. 2000).

71. See House Audio, *supra* note 12 (remarks by Reps. Warren Massey and Mickey Channell).

72. See Senate Audio, *supra* note 2.

73. Electronic Mail Interview with Rep. Glenn Richardson, House District No. 26 (May 25, 2000).

74. See House Audio, *supra* note 12 (remarks by Rep. Glenn Richardson).

75. See Georgia House of Representatives Voting Record, SB 297 (Mar. 22, 2000); Georgia Senate Voting Record, SB 297 (Mar. 22, 2000).